

Hearing Date and Time: June 17, 2009 at 2:00 p.m. (Prevailing Eastern Time)

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
	)	
	)	Chapter 11
Lehman Brothers Holdings Inc., <u>et al.</u>	)	
	)	Case No. 08-13555 (JMP)
Debtors.	)	
	)	(Jointly Administered)
	)	

**OBJECTION TO MOTION OF THE DEBTORS, PURSUANT TO SECTION  
502(b)(9) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE  
3003(c)(3), FOR ESTABLISHMENT OF THE DEADLINE FOR FILING  
PROOFS OF CLAIM, APPROVAL OF THE FORM AND MANNER OF  
NOTICE THEREOF AND APPROVAL OF THE PROOF OF CLAIM FORM**

Commerzbank AG ( including the former Dresdner Bank AG “Commerzbank”),  
by its attorneys Hahn & Hessen LLP, hereby submit this objection (the “Objection”) to the bar  
date motion (the “Motion”) [D.I. 3654] of the above-captioned debtors and debtors in possession  
(the “Debtors”) pursuant to section 502(b)(9) of the Bankruptcy Code and Bankruptcy Rule  
3003(c)(3), for establishment of the deadline for filing proofs of claim, approval of the form and  
manner of notice thereof and approval of the proof of claim form. In support of its Objection,  
Commerzbank respectfully states as follows:<sup>1</sup>

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Bar Date Motion.

1. Commerzbank is a Party-in-Interest and possesses claims arising out of Derivative Contracts and Guarantees of Derivative Contracts.

2. Commerzbank has no objection to the establishment of a claims bar date in these chapter 11 cases. However, the Motion goes beyond the simple establishment of a bar date, and, if approved, would require every creditor asserting claims based on Derivative Contracts and Guarantees of Derivative Contracts to provide burdensome amounts of information and supporting documentation in connection with the initial filing of their proofs of claim.

Commerzbank alone had over 1,000 trades with Lehman Brothers Special Finance, Inc. which were guaranteed by Lehman Brothers Holdings, Inc., so the number of documents for this single institution could easily run into the thousands. Therefore, Commerzbank objects to the Motion on the following grounds:

a. The Debtors seek to require far more information than is necessary for a proof of claim in contravention of both the letter and spirit of Bankruptcy Rule 3001, which accords *prima facie* validity to a proof of claim filed in accordance with the Bankruptcy Rules. See Bankruptcy Rule 3001(f).

b. The proposed Derivative and Guarantee Questionnaires the Debtors seek to impose one-sided discovery in the form of interrogatories and document requests on claimants, in contravention of the Bankruptcy Rules. This is a back-handed attempt to obtain discovery that Debtors are not entitled to absent the proper procedures which is to object to the claim and initiate a contested matter pursuant to Rule 9014, or object to the claim as part of an adversary proceeding.

c. The proposed Derivative and Guarantee Questionnaires would impose an undue burden on Commerzbank by requiring them to identify and collect an enormous amount of

information as part of their proof of claim for Derivative Contracts or Guarantees thereof. This request for a multitude of documents is both burdensome and unreasonable in the time frame allotted under the Motion, and it appears the Debtors may be creating a cumbersome process to discourage claimants from filing proofs of claim, or to create grounds for objections simply because claimants did not meet the onerous standards that the Debtors have imposed.

3. Commerzbank is mindful of the complexity of both these Chapter 11 cases and the nature of the claims which underlie the Motion. It is sympathetic to the Debtors' attempt to begin their resolution, a resolution which may eventually involve industry-wide protocols. At the same time the relief requested in the Motion seeks relief which goes far beyond what is required under the Bankruptcy Code.

### **CONCLUSION**

WHEREFORE, for the reasons set forth herein, Commerzbank respectfully requests that this Court (i) deny the Motion, and (ii) and grant such other and further relief as this Court may deem just or proper.

Dated: New York, New York  
June 12, 2009

Respectfully submitted,

**HAHN & HESSEN LLP**

/s Jeffrey L. Schwartz

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A Member of the Firm

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